## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

JOHNNY STAFFORD §

v. § CIVIL ACTION NO. 6:16cv1114

RUSK COUNTY, TEXAS, ET AL. §

## MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Petitioner Johnny Stafford, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of a pending prosecution in the state district court in Rusk County, Texas. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to exhaust state remedies. Stafford received a copy of this Report but filed no objections thereto; he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is

"clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. 8) is **ADOPTED** as the

opinion of the District Court. It is further

**ORDERED** that the above-styled application for the writ of habeas corpus is **DISMISSED** 

WITHOUT PREJUDICE. It is further

**ORDERED** that the Petitioner Johnny Stafford is **DENIED** a certificate of appealability *sua* 

sponte. The denial of this certificate relates only to the present case and shall have no effect upon

Stafford's right to present his claims to the courts of the State of Texas or his right to again seek

habeas corpus relief in federal court in the event that he does not receive the relief he seeks in state

court. Finally, it is

**ORDERED** that any and all motions which may be pending in this civil action are hereby

DENIED.

So Ordered and Signed

Apr 25, 2018

Ron Clark, United States District Judge

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